

REMARKS

Claims 1-21 are pending in the Application and all were subject to a restriction requirement in the Office action mailed October 24, 2007. Claims 11-21 are amended and new claims 22-26 have been added by this response. Claims 1, 8, 10, 17, and 22 are independent claims. Claims 2-7, 9, 11-16, 18-21, and 23-26 depend from independent claims 1, 8, 10, 17, and 22, respectively.

Applicant respectfully requests reconsideration of pending claims 1-26, in light of the following remarks.

Amendments to the Claims

Applicant has amended claims 11-16 to correct minor errors in claim drafting. Applicant respectfully submits that these amendments do not add new matter.

Applicant has amended claims 17-21 to recite a "system" rather than a "device". Applicant respectfully submits that these amendments do not add new matter.

Restriction Requirement

The Office action mailed October 24, 2007 set forth a restriction requirement upon claims 1-21 under 35 U.S.C. §121, and groups claims 1-7 and 10-21 as belonging to "Invention I", and claims 8 and 9 as belonging to "Invention II". The instant Office action stated that "...[i]nventions group I and II are unrelated. Invention are unrelated if it can be shown that they are not disclosed as capable of use together and they have different designs, modes of operation, and effects (MPEP §802.01, MPEP §806.06). In the instant case, the different inventions have different modes of operation, Group I is directed to echo cancellation and Group II is speech detection." (Office action at page 2) Applicant respectfully submits that the restriction requirement in the Office action mailed October 24, 2007 is without proper basis. Applicant respectfully traverses the restriction requirement set forth in the instant Office action for the reasons set forth below.

The Applicant notes that a goal of patent examination is to provide a prompt and complete examination of a patent application.

It is essential that patent applicants obtain a prompt yet complete examination of their applications. Under the principles of compact prosecution, each claim should be reviewed for compliance with every statutory requirement for patentability in the initial review of the application, even if one or more claims are found to be deficient with respect to some statutory requirement. Thus, Office personnel should state all reasons and bases for rejecting claims in the first Office action. Deficiencies should be explained clearly, particularly when they serve as a basis for a rejection. Whenever practicable, Office personnel should indicate how rejections may be overcome and how problems may be resolved. A failure to follow this approach can lead to unnecessary delays in the prosecution of the application.

(See M.P.E.P. §2106(II))

The Applicant was confident upon receipt of the Office action mailed February 21, 2007, based on the goals of patent examination noted above, that the Office action of February 21, 2007 set forth "all reasons and bases" for rejecting the claims in the Application.

According to M.P.E.P. § 904.02, "[i]n the examination of an application for patent, an examiner must conduct a thorough search of the prior art." The Applicant is confident that the Examiner conducted a thorough search of the prior art during the examination that culminated in the Office action mailed February 21, 2007, in fulfillment of his obligation under M.P.E.P. § 904.02.

Applicant respectfully traverses the restriction requirement set forth in the instant Office action because "[i]f the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to independent or distinct inventions." (See M.P.E.P. § 803) One of the "two criteria for a proper requirement for restriction between patentably distinct inventions" is that "[t]here must be a serious burden on the examiner if restriction is not required...." (See M.P.E.P. § 803) While "[f]or purposes of the initial requirement a

serious burden on the examiner may be prima facie shown if the examiner shows by appropriate explanation either separate classification, separate status in the art, or a different field of search...[t]hat prima facie showing may be rebutted by appropriate showings or evidence by the applicant." (See M.P.E.P. § 803) The Applicant rebuts the Examiner's prima facie showing in this case as follows.

Applicant respectfully submits that by issuing the Office action of February 21, 2007, the Office represents that a thorough search of the prior art has already been performed. Applicant respectfully submits that the Office action of February 21, 2007, following a thorough search of the prior art, did not set forth a restriction requirement. Applicant therefore concludes that the search of the prior art was conducted without a serious burden upon the Examiner, otherwise the Examiner would have issued a restriction requirement at that time. Further, the Office has failed to set forth any statement or present any reasoning that the amendments set forth in Applicant's July 23, 2007 response to the Office action mailed February 21, 2007 have, in any way, been the cause of the restriction set forth in the Office action of October 24, 2007. Applicant wishes to point out that the amendments to claims 1, 10, and 17 shown in the amendment filed July 23, 2007 were specifically made to clarify the subject matter of claims 1, 10, and 17, in response to the Examiner's rejections under 35 U.S.C. §§101 and 112 set forth in the Office action of February 21, 2007.

Therefore, for at least the reasons set forth above, Applicant respectfully submits that examining all of claims 1-21 in the same application does not represent a "...serious burden on the Examiner...", as required by M.P.E.P. §803, submits that the restriction requirement in the Office action mailed October 24, 2007 is without proper basis, for at least the reasons set forth above, and respectfully requests that the restriction of claims 1-21 under 35 U.S.C. §121 be withdrawn.

In the event that the Office chooses to maintain the restriction requirement of the instant Office action, the Applicant hereby provisionally elects the claims of Invention I (i.e., pending claims 1-7 and 10-21) for further prosecution in the Application.

Newly Added Claims

Applicant has added new claims 22-26, which are similar in many respects to claims 17-21. Claim 22 is an independent claim from which claims 23-26 depend. Support for these new claims may be found, for example, in claims 17-21, and in paragraphs [0130]-[0141] and Figures 5A, 5B, 5C, and 5D of the Specification. Applicant respectfully submits that new claims 22-26 do not add new matter.

Conclusion

In general, the Office Action makes various statements regarding claims 1-21 and the cited references that are now moot in light of the above. Thus, Applicant will not address such statements at the present time. However, Applicant expressly reserves the right to challenge such statements in the future should the need arise (e.g., if such statements should become relevant by appearing in a rejection of any current or future claim).

Applicants believe that all of claims 1-26 are in condition for allowance, and respectfully solicit a Notice of Allowability in the Application.

The Commissioner is hereby authorized to charge any additional fees associated with this communication, or credit any overpayment, to Deposit Account No. 13-0017.

Respectfully submitted,

Dated: November 26, 2007

/Kevin E. Borg/
Kevin E. Borg
Reg. No. 51,486

McANDREWS, HELD & MALLOY, LTD.
500 West Madison Street
Suite 3400
Chicago, Illinois 60661
Phone (312) 775-8000
Facsimile (312) 775-8100